IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 35081 of 2007(B)

PETITIONER:

C. RAJAPPAN,
PROPRIETOR, ASWATHY STORES, MADATHARA, KOLLAM,
RESIDING AT ASWATHY BHAWAN, MADATHARA P.O.,
PERINGAMALA VIA.,NEDUMANGADU,THIRUVANANTHAPURAM DT

BY ADV. SRI.C.S.MANU
SRI.S.K.PREMRAJ
SRI.ANOOP JOSEPH
SRI.ANOOP.V.NAIR
SRI.ABHILASH AKBAR
SRI.T.B.SIVAPRASAD

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF
KERALA, DEPARTMENT OF TAXES,GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

3. DEPUTY TAHSILDAR (REVENUE RECOVERY),
NEDUMANGAD, THIRUVANANTHAPURAM DISTRICT.

4. VILLAGE OFFICER,
PERINGAMMA VILLAGE, NEDUMANGAD,
THIRUVANANTHAPURAM DISTRICT.

5. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM.

6. ASSISTANT COMMISSIONER (KVAT),
SPECIAL CIRCLE, COMMERCIAL TAXES, KOLLAM.

BY G.P.SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Antony Dominic, J.

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W.P.(C) No. 35081 of 2007

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Dated this the 28th day of November, 2007

JUDGMENT

Against Ext.P2 order of penalty and Exts.P4 to P6 assessment orders, the petitioner had filed Exts.P14, P18, P22 and P26 appeals along with Exts.P15, P19, P23 and P27 petitions for condonation of delay and Exts.P16, P20, P24 and P28 petitions for stay of recovery of the amount due under the orders appealed against. It is submitted that revenue recovery proceedings have been initiated against the petitioner, while orders are not passed on either the petitions for condonation of delay or stay.

2. Since no order of stay has been granted restraining the respondents from proceeding against the petitioner, the respondents cannot be said to be at fault for initiating revenue recovery action. However, since the appeals are pending along with the petitions for condonation of delay and petitions for stay, it is only proper that the petitions are considered before revenue recovery action is proceeded with.

3. Therefore, I direct that the 5th respondent shall consider the aforesaid petitions for condonation of delay and, depending upon the orders passed thereon, petitions for stay. This shall be done within three weeks

from the date of production of a copy of this judgment. In the meanwhile, further proceedings pursuant to Exts.P7, P8 and P9 shall be deferred for four weeks.

4. The petitioner shall produce a copy of this judgment before the 5th respondent for compliance.

The writ petition is disposed of, accordingly.

Antony Dominic,
Judge.

mn.